

GENERAL SERVICES

830 MoDOT DRIVE – P.O. BOX 270

JEFFERSON CITY, MO 65109

REQUEST NO.	2-110825BT2
DATE	August 11, 2011
PAGE NO.	1
NO. OF PAGES	

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL
BE RECEIVED AT THIS OFFICE UNTIL

2:00 p.m., Local Time, August 25, 2011

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING
THE FOLLOWING SUPPLIES OR SERVICES.

**BIDS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF
TRANSPORTATION**

Submit net bid as cash discount stipulations will not be considered
Various MoDOT Locations

DEFINITE DELIVERY DATE SHOULD BE SHOWN. THE BIDDER MUST SIGN AND RETURN BEFORE DATE AND TIME SET
FOR OPENING. ALL BIDS SHOULD BE EXTENDED AND TOTALED.

BUYER: Brenda Tyree
BUYER EMAIL:
Brenda.Tyree@modot.mo.gov

BUYER TELEPHONE: 573- 751-7482

SUPPLIES OR SERVICES

Traffic Controllers – NEMA TS1 & TS2

To establish a contract to furnish “Traffic Controllers – NEMA TS1 & TS2” with an effective
Notice to Proceed and ending September 30, 2012 in accordance with the following pages.

Return sealed bid to the address shown at the top of this page.

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

*In compliance with the above Request For Bid, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver
any or all the items on which prices were bid within the timeframe specified herein, after receipt of formal purchase order.*

Date: _____
Telephone No.: _____
Fax No.: _____
Email Address: _____

Firm Name: _____
Address: _____
By (Signature): _____
Type/Print Name _____

Is your firm MBE
certified? ☐ Yes ☐ No

Title: _____
Is your firm WBE
certified? ☐ Yes ☐ No

1. INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction:

- 1.1.1 This Request for Bid seeks bids from qualified organizations to provide traffic controllers, with an effective contract period of Notice to Proceed through September 30, 2012, to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT). Each bid must be mailed in a sealed envelope to Ms. Brenda Tyree, General Services Procurement Unit, 830 MoDOT Drive, P.O. Box 270, Jefferson City, MO 65109, or hand-delivered in a sealed envelope to the General Services Procurement Office in the Highway and Transportation Building at 830 MoDOT Drive, Jefferson City, MO. All questions regarding the RFB shall be submitted to Ms. Brenda Tyree. Bids must be returned to the office of Ms. Brenda Tyree no later than 2:00 p.m., CDT, August 25, 2011.

RFB Coordinator:

**Ms. Brenda Tyree, Senior Procurement Agent
Missouri Department of Transportation
830 MoDOT Drive
Jefferson City, MO 65109**

PHONE: 573-751-7482

FAX: 573-526-1218

1.2 General Information:

1.2.1 This document constitutes an invitation for competitive, sealed bids for the procurement of traffic controllers as set forth herein.

1.2.2 Organization - This document, referred to as a Request for Bid (RFB), is divided into the following parts:

- 1) Introduction and General Information
- 2) Scope of Work
- 3) Bid Submission
- 4) Pricing Page(s)
- 5) Attachments A –F

Attachment A = Assembly Equipment List

Attachment B = TS1 Specific Specifications
(Click on separate link to view Attachment)

Attachment C = TS2 Specific Specifications
(Click on separate link to view Attachment)

Attachment D = Order Forms for TS1
(Click on separate link to view Attachment)

Attachment E = Order Forms for TS2
(Click on separate link to view Attachment)

Attachment F = Order Forms for Cabinets Only
(Click on separate link to view Attachment)

Attachment G = MoDOT Approved Products List – Traffic Controllers

Attachment H = State of Missouri Map (by MoDOT District)

- 6) Signature Page(s)
- 7) Terms and Conditions

2. SCOPE OF WORK

2.1 General Requirements:

- 2.1.1 The contractor shall provide NEMA TS1 and TS2 Signal Controller Assemblies (hereinafter referred to as "traffic controllers") on an as needed, if needed basis for the Missouri Highway and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT), in accordance with the provisions and requirements stated herein.
- 2.1.2 The contractor shall provide all deliverables/services to the sole satisfaction of the MoDOT.
- 2.1.3 MoDOT estimates, but does not guarantee, the purchase of the estimated quantities stated herein.
- 2.1.4 MoDOT reserves the right to obtain "like or similar" products as specified herein from other manufacturers, exclusive of the contract, when use of such products is deemed in the best interest of the MoDOT.
- 2.1.5 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to provide the deliverables/services required herein.

2.2 Specific Requirements:

- 2.2.1 The contractor shall insure all materials, equipment, and/or services comply with the MoDOT specifications specified as Attachment B (for TS1) and Attachment C (for TS2), and as specified in any other provisions outlined in the solicitation document.
- 2.2.2 The contractor shall insure traffic controllers are built according to the attached specifications and wired according to the individual phasing sheets as specified herein on Attachments D, E, and F.
- 2.2.3 The contractor shall provide traffic controllers in which all boxes required to complete the traffic controller assembly are packaged together as one.
- 2.2.4 The contractor shall agree and understand that only items on the latest revision of the MoDOT Approved Products List, specified herein as Attachment G, for Traffic Signals and Highway Lighting Equipment will be accepted.

2.3 Delivery Requirements:

- 2.3.1 The contractor shall deliver the specified traffic controllers to MoDOT Districts located throughout the State of Missouri specified in Attachment H.
- 2.3.2 The contractor shall not deliver any traffic controllers to MoDOT until being notified by MoDOT by telephone or purchase order.
- 2.3.3 The contractor shall deliver traffic controllers at the specified location within 90 calendar days after the issue date of a purchase order.
- 2.3.4 The contractor shall agree and understand that MoDOT shall not receive any deliveries on a Saturday or Sunday.

2.4 Additional Requirements:

- 2.4.1 The contractor shall agree and understand that all traffic controllers shall be subject to a twenty (20) day acceptance period, which includes fifteen (15) days for testing the equipment and five (5) days for the contractor to repair or replace any defective equipment.
 - a. The test period shall begin no later than fifteen (15) days after the date the equipment is

received. Any failure or malfunction of the equipment during the test period shall be corrected at the contractor's expense. The equipment shall then be tested for an additional fifteen (15) days. The procedure shall be repeated until the equipment has operated to the state's satisfaction for fifteen (15) consecutive days.

2.5 Liquidated Damage Requirements:

- 2.5.1 The contractor shall agree and understand that providing traffic controllers in accordance with the requirements stated herein is considered critical to the efficient operations of the MoDOT. However, since the amount of actual damages would be difficult to establish in the event the contractor fails to comply with the contractual requirements, the contractor shall agree and understand that the amount identified below as liquidated damages shall be reasonable and fair under the circumstances.
- a. In the event the contractor fails to provide traffic controllers in accordance with the contractual requirements specified herein, the contractor shall be assessed liquidated damages in the amount of \$50.00 per controller, per day for each such delinquent day after the twenty (20) day acceptance period.
 - b. The contractor shall further agree and understand that such liquidated damages shall either be deducted from the total amount due the contractor or paid by the contractor as a direct payment to the MoDOT, at the sole discretion of the MoDOT.
 - c. The contractor shall understand that the liquidated damages described herein shall not be construed as a penalty.
 - d. The contractor shall understand and agree that all assessments of liquidated damages shall be within the discretion of each District as a separate entity, and shall be in addition to, not in lieu of, the rights of the State of Missouri to pursue other appropriate remedies. The contractor shall understand and agree that each District's decision shall be individual, final, and without recourse.
 - e. The contractor shall agree and understand that all assessments of liquidated damages shall be within the discretion of the State of Missouri and shall be in addition to, not in lieu of, the rights of the State of Missouri to pursue other appropriate remedies.

2.6 Invoicing and Payment Requirements:

- 2.6.1 The contractor shall submit an itemized invoice to the applicable requesting address, as specified herein.
- 2.6.2 The contractor shall be paid in accordance with the firm, fixed price(s) stated on the pricing page of this document, after completion of deliverables specified herein and acceptance by MoDOT.
- 2.6.3 Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.
- 2.6.4 MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful bidder upon request.
- 2.6.5 Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- 2.6.6 The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the

contractor's expense.

2.6.7 The MHTC reserves the right to purchase goods and services using the state-purchasing card.

2.7 Other Contractual Requirements:

2.7.1 Contract Period - The contract shall commence from the Notice to Proceed until September 30, 2012.

2.7.2 Inspection Specifications - MoDOT reserves the right to inspect the material at the point of manufacture, intermediate storage point, or at a destination which shall be at the discretion of MoDOT.

3. BID SUBMISSION

3.1 Bid Submission Information:

3.1.1 All bids must be received in a sealed envelope clearly marked "Traffic Controllers – TS1 and TS2".

3.1.2 All bids must be received at the following address no later than August 25, 2011 at 2:00 p.m., CDT.

The Missouri Department of Transportation
General Services – Procurement Section
Attn: Brenda Tyree
830 MoDOT Drive
Jefferson City, MO 65109

3.1.3 The bidder should complete and submit two (2) copies of Attachment A (one for TS1 and one for TS2) with the bid, listing each component with the manufacturer name, and model number.

- a. TS1 - Only items on the latest revision of the MoDOT Approved Products List for Traffic Signals and Highway Lighting Equipment shall be accepted.
- b. TS2 - Only TS2 controllers as listed on the Pricing Page of this document shall be accepted.

3.1.4 The bidder may withdraw, modify or correct his bid after it has been deposited with MoDOT provided such request is submitted in writing and received at the location designated for the bid opening prior to the time specified for opening bids. Such a request received as specified will be attached to the bid and the bid will be considered to have been modified accordingly. With the exception of the equipment list specified herein, no bid may be modified after the time specified for the opening of bids.

3.1.5 Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and best bid.

3.1.6 *Cost Determination* – The low bid shall be determined by multiplying the estimated quantity with the unit price, to obtain a total price.

3.1.7 *Contract Award* – The contract will be awarded to the lowest responsive bidder determined as specified above.

- a. Award of this bid will be made on a "Category-by-Category" basis using the "lowest and best" principle of award.
- b. MoDOT reserves the right to reject any or all bids, and no award is final until formally approved.

3.1.8 *Open Competition / Request For Bid Document:*

- a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise the MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from the MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least three (3) working days prior to the official bid opening date.

- b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the RFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the RFB, any questions received less than three (3) working days prior to the RFB opening date may not be answered.
- c. Bidders are cautioned that the only official position of the State of Missouri is that which is issued by the MoDOT in the RFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. The MoDOT monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.

4. PRICING PAGE

- 4.1 Traffic Controllers** - The bidder shall provide firm, fixed prices in the table below for providing the deliverables/services in accordance with the provisions and requirements of this RFB. All costs associated with providing the required deliverables/services shall be included in the prices stated below.

TRAFFIC CONTROLLERS – TS1				
Item #	Description and C/S Code	Estimated Qty.	Firm, Fixed Price, per unit	Extended Price
001	NEMA TS1 Traffic Signal Controller Assemblies – Northwest District	1	\$ _____ per unit	\$ _____ per unit
002	NEMA TS1 Traffic Signal Controller Assemblies – Northeast District	2	\$ _____ per unit	\$ _____ per unit
003	NEMA TS1 Traffic Signal Controller Assemblies – Central District	3	\$ _____ per unit	\$ _____ per unit
TRAFFIC CONTROLLERS – TS2				
004	NEMA TS2/Type 1 Traffic Signal Controller Assemblies with TS2 Cabinet – Kansas City District	3	\$ _____ per unit	\$ _____ per unit
005	NEMA TS2/Type 2 Traffic Signal Controller Assemblies with TS2 Cabinet – Southwest District	3	\$ _____ per unit	\$ _____ per unit
TRAFFIC CONTROLLERS – CABINET ONLY – TS2				
006	NEMA TS2 Traffic Signal Cabinet – Kansas City District	2	\$ _____ per unit	\$ _____ per unit

- 4.2** The bidder is hereby advised that the following TS2 Traffic Signal Controllers are approved for purchase:

Eagle EPAC M42

Eagle EPAC M52

Econolite ASC/2S-2100

Econolite ASC3-2100

Naztec 980

Signature

Date

VENDOR INFORMATION & PREFERENCE CERTIFICATION FORM

Vendor Information

All bidders must furnish ALL applicable information requested below

Vendor Name/Mailing Address: Email Address:	Vendor Contact Information (including area codes): Phone #: Cellular #: Fax #: 									
Printed Name of Responsible Officer or Employee:	Signature:									
For Corporations - State in which incorporated:	For Others - State of domicile:									
If the address listed in the Vendor Name/Mailing Address block above is not located in the State of Missouri, list the address of Missouri offices or places of business: <i>If additional space is required, please attach an additional sheet and identify it as Addresses of Missouri Offices or Places of Business.</i>										
M/WBE INFORMATION: List all certified Minority or Women Business Enterprises (M/WBE) utilized in the fulfillment of this bid. Include <u>percentages</u> for subcontractors and identify the M/WBE certifying agency: <table style="width: 100%; border: none;"> <tr> <td style="text-align: center; width: 33%;"><u>M/WBE Name</u></td> <td style="text-align: center; width: 33%;"><u>Percentage of Contract</u></td> <td style="text-align: center; width: 33%;"><u>M/WBE Certifying Agency</u></td> </tr> <tr> <td style="border-top: 1px solid black; height: 20px;"></td> <td style="border-top: 1px solid black; height: 20px;"></td> <td style="border-top: 1px solid black; height: 20px;"></td> </tr> <tr> <td style="border-top: 1px solid black; height: 20px;"></td> <td style="border-top: 1px solid black; height: 20px;"></td> <td style="border-top: 1px solid black; height: 20px;"></td> </tr> </table> <i>If additional space is required, please attach an additional sheet and identify it as M/WBE Information.</i>		<u>M/WBE Name</u>	<u>Percentage of Contract</u>	<u>M/WBE Certifying Agency</u>						
<u>M/WBE Name</u>	<u>Percentage of Contract</u>	<u>M/WBE Certifying Agency</u>								

Preference Certification

All bidders must furnish ALL applicable information requested below

GOODS/PRODUCTS MANUFACTURED OR PRODUCED IN USA: If any or all of the goods or products offered in the attached bid which the bidder proposes to supply to the MHTC are <u>not</u> manufactured or produced in the "United States", or imported in accordance with a qualifying treaty, law, agreement, or regulation, list below, by item or item number, the country other than the United States where each good or product is manufactured or produced.	
Item (or item number)	Location Where Item is Manufactured or Produced
<i>If additional space is required, please attach an additional sheet and identify it as Location Products are Manufactured or Produced.</i>	
MISSOURI SERVICE-DISABLED VETERAN BUSINESS: Please complete the following if applicable. Additional information may be requested if preference is applicable. See below definitions for qualification criteria: Service-Disabled Veteran is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs. Service-Disabled Veteran Business is defined as a business concern: <ol style="list-style-type: none"> a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and b. The management and daily business operations of which are controlled by one or more service-disabled veterans. 	
<u>Veteran Information</u>	<u>Business Information</u>
Service-Disabled Veteran's Name (Please Print)	Service-Disabled Veteran Business Name
Service-Disabled Veteran's Signature	Missouri Address of Service Disabled Veteran Business

NOTICE

The Department is interested in assisting Missouri governmental entities, etc. in purchasing equipment, various materials, and supplies that meet the MoDOT specifications.

Each bidder is asked to indicate below whether they would be willing to offer **Traffic Controllers** listed in the attached "Request for Bid" for sale to these local political entities at the same bid price offered to this Department.

It is understood the Department will not issue purchase orders, accept delivery nor make payment for these items ordered by any of these agencies. It is further understood the price is based on the **Traffic Controllers** meeting the Department specifications. Any added options, deletions, or extra freight costs would be negotiated between the local agency and the successful vendor.

Indicate below whether your company is willing to offer such cooperative purchasing for Missouri counties, cities or other political entities.

YES _____

NO _____

If the price varies throughout the state on Department bids because of different delivery destinations, please indicate the price f.o.b. your location that would be offered as described.

F.O.B. Location _____

Indicate the deadline date that orders will be accepted. _____

COMPANY NAME _____

ADDRESS _____

PHONE NUMBER _____

SIGNATURE _____

TITLE _____

DATE _____

Missouri Highways and Transportation Commission
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions
STANDARD SOLICITATION PROVISIONS

- a. The solicitation for the procurement of the supplies referenced therein, to which these "Standard Bid Provisions, General Terms and Conditions and Special Terms and Conditions" are attached, is being issued under, and governed by, the provisions of Title 7 -- Missouri Department of Transportation, Division 10 -- Missouri Highways and Transportation Commission, Chapter 11 -- Procurement of Supplies, of the Code of State Regulations. The Missouri Highways and Transportation Commission (MHTC), acting by and through its operating arm, the Missouri Department of Transportation (MoDOT), draws the Bidder's attention to said 7 CSR 10-11 for all the provisions governing solicitation and receipt of bids/quotes and the award of the contract pursuant to this solicitation.
- b. All bids/quotes must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.

GENERAL TERMS AND CONDITIONS

Definitions

Capitalized terms as well as other terms used but not defined herein shall have the meaning assigned to them in section 7 CSR 10-11.010 Definition of Terms.

Nondiscrimination

- a. The Contractor shall comply with all state and federal statutes applicable to the Contractor relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of Civil Rights Act of 1964 as amended (42 U.S.C. Sections 2000d and 2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. Section 12101, *et seq.*).
- b. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MHTC shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
 - ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

- a. By submitting a bid/quote, the Bidder agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's bid response, and (3) the MHTC's acceptance of the bid by post-award contract or purchase order.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized notice to proceed and/or purchase order.

Applicable Laws and Regulations

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri, Missouri Department of Revenue, and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MHTC a copy of their current Authority Certificate from the Secretary of State of the State of Missouri and/or a copy of their Certificate of No Tax Due from the Missouri Department of Revenue.
- c. Prior to the issuance of a purchase order and/or notice to proceed, all out-of-state Contractors **providing services** within the state of Missouri must submit to MHTC a copy of their current Transient Employer Certificate from the Missouri Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.

Executive Order:

The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Malt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.

- 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
- 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
- 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Preferences

- a. In the evaluation of bids/quotes, preferences shall be applied in accordance with 7 CSR 10-11.020(7). Contractors should apply the same preferences in selecting subcontractors. The attached document entitled "VENDOR INFORMATION AND PREFERENCE CERTIFICATION FORM" must be completed and returned with the solicitation documents.
- b. Bidders are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.

Missouri Highways and Transportation Commission
Standard Bid/Proposal Provisions, General Terms and Conditions and Special Terms and Conditions

Cancellation of Contract

The MHTC may cancel the Contract at any time for a material breach of contractual obligations or for convenience by providing Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.

Bankruptcy or Insolvency

Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntarily, or upon the appointment of a receiver, trustee, or assignee, for the benefit of creditors, the Commission reserves the right and sole discretion to either cancel the Agreement or affirm the Agreement and hold the Contractor responsible for damages.

Warranty

The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the MHTC, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.

Status of Independent Contractor

The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

Non-Waiver

If one of the parties agrees to waive its right to enforce any term of this Contract, that party does not waive its right to enforce such term at any other time or to enforce any or all other terms of this Contract.

Indemnification

The Contractor shall defend, indemnify and hold harmless MHTC, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Contractor's performance of its obligations under the contract awarded pursuant to this solicitation.

SPECIAL TERMS AND CONDITIONS

Tax Exempt Status:

MHTC is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Project Tax Exemption Certificate will be furnished to the successful Bidder upon request if applicable.

Temporary Suspension of Work

- a. The District Engineer shall have authority to suspend work wholly or in part for such period or periods as may be deemed necessary when weather or other conditions are such that in the opinion of the engineer, the work may be done at a later time with advantage to MoDOT or for failure on the part of the Contractor to comply with any of the provisions of the Contract.
- b. If MoDOT suspends the work for its own advantages and not because of the Contractor's failure to comply with the Contract, the Contractor will be allowed an equal number of calendar days after the completion date for the completion of the work. MoDOT may at its discretion give the Contractor an extension of time for completing the work where the Contractor incurs delays for causes beyond his control.
- c. Normal rainfall is not considered a cause qualifying for an extension of time. Claim for extension of time for all causes must be submitted by the Contractor in writing within 30 Days after the claimed cause for the delay has ceased to exist.